



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THERVANCE, INC.
Patent Department
901 Gateway Boulevard, CA 94080

COPY MAILED

DEC 13 2005

OFFICE OF PETITIONS

In re	:	
JI et al.	:	
Application No. 09/456,429	:	RECONSIDERATION OF
Filing Date: Dec. 8, 1999	:	PATENT TERM ADJUSTMENT
Attorney Docket: P-015RPI	:	

This decision is in response to patentee's submission of a paper titled REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON ISSUED PATENT (37 CFR 1.705) timely¹ filed on June 7, 2005 requesting that the Office adjust the PTA determination from a calculation of one hundred and nine (109) days to a determination of one hundred and fifty-nine (159) days at the time of the mailing of the issuance of the patent.

Patentee's request for an adjustment of the PTA is **DISMISSED**. The Office did not commit an error in the reduction of the PTA for the submission of drawing after the mail date of the notice of allowance.

Patentee asserts that the correct determination at the time of the issuance of the patent is 159 days. Patentees agree with the Office determination of two hundred and thirty-six (236) days of administrative delay on the part of the Office, twenty-four days under 37 CFR 1.702(a)(2) and two hundred and twelve (212) days under 37 CFR 1.704(a)(4). Patentee also does not contest the seventy-seven (29 + 48) days of patentee delay under 37 CFR 1.704(b). However, patentee does contest the 50 day reduction under 37 CFR 1.704(c)(10). Applicants assert that the reduction was improper because he/she was not apprised of the problem with the drawings until after the patentee received the mailed notice of allowability.

¹ Patent number 6,897,305 issued on May 24, 2005.

Patentee's argument has been considered but is not persuasive. Regardless of whether the applicant had received notice of drawing error with the notice of allowance or with a supplemental notice after the mail date of the notice of allowance, the submission of the drawings after the mailing of the notice of allowance is considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). In an official notice published in the *Official Gazette*, 1247 OG 111 (June 26, 2001), the Office provided notice to the public on what type of papers filed after the notice of allowance would and would not be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). Drawings submission were considered a paper that would delay the issuance of the patent.

After the mailing of the Office action, the file will be maintained in the file repository.

The Office has assessed the \$200.00 fee to Deposit Account 50-0344. No additional fees are required by the Office in determining this decision.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy